

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

TRUSTEES OF THE PAVERS AND ROAD BUILDERS  
DISTRICT COUNCIL WELFARE, PENSION, AND  
ANNUITY FUNDS and THE TRUSTEES OF THE  
LOCAL 1010 APPRENTICESHIP, SKILL  
IMPROVEMENT, AND TRAINING FUND,

Plaintiffs,

-against-

WESTBURY EQUIPMENT CORP.,

Defendant.

24 CV 4622 (BMC)

**DECLARATION OF  
ROBERT CASTIGLIA IN  
SUPPORT OF DEFAULT  
JUDGMENT**

Robert Castiglia declares:

1. I am over the age of 18 years and competent to testify in this proceeding.
2. I am a partner in the accounting firm of Castiglia, LLP (“Castiglia”). Castiglia is the auditing firm for Plaintiffs Trustees of the Pavers and Road Builders District Council Welfare, Pension and Annuity Funds and Trustees of the Local 1010 Apprenticeship, Skill Improvement and Training Funds (the “Funds”).
3. I am making this declaration in support of the Funds motion for default judgment against defendant Westbury Equipment Corp. (“Westbury” or “Defendant”).

**The Audit**

4. Pursuant to the CBAs, Castiglia conducted an agreed upon procedure of Westbury covering the period January 8, 2020 through June 30, 2023 (the “Audit”) to determine whether Defendant complied with its collectively bargained obligations to make contributions and related payments to the Funds and the Highway, Road and Street Construction Laborers Local Union 1010 (the “Union”). *See* Loscalzo Decl. ¶ 18; Montelle Decl. ¶ 10.

5. The Audit revealed that Defendant owes the Funds the sum of \$39,395.50, consisting of: (1) delinquent contributions of \$36,128.40, (2) union assessments of \$2,184, and (3) dues check-offs of \$1,083.10. The Funds also incurred audit costs of \$1,805. A copy of the Audit is attached hereto as **Exhibit K**.

#### ***Audit Report Findings***

6. In conducting the Audit, the auditors reviewed contribution reports, individual earning records, tax returns, certified payroll records, if available, and W-2 forms in connection with work performed by individuals who were paid by Defendant from January 8, 2020 through June 30, 2023. I supervised the audit of Defendant.

7. Based on Westbury's books and records and the payment history, the auditors determined that Defendant failed to remit contributions to the Funds for 840 regular hours, paid/worked by its employees within the jurisdiction of the Union. *See Ex. K*.

8. After multiplying these hours by the applicable rates, the auditors determined that Defendant failed to remit contributions in the principal amount of \$36,128.40, union assessments of \$2,184, and dues check-offs of \$1,083.10. *Id.*

#### ***Audit Fees***

9. Pursuant to the Collection Policy "...in the event a legal action is commenced..." employers shall be liable for "all costs including, but not limited to, reasonable audit and accounting expenses..." *See Montelle Decl.*, at ¶ 12.

10. Castiglia has approximately 25 years of experience in auditing employers pursuant to labor agreements on behalf of labor organizations such as Plaintiffs.

11. Auditors worked 19 hours on producing the audit report at an hourly rate of \$95. Accordingly, the Funds incurred audit costs of \$1,805.

I declare under penalty of perjury that the foregoing is materially true and correct.

Executed on August 12, 2024.

  
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Robert Castiglia